

Legislative Analysis



RAISE THE AGE: FAMILY ADVISORY BOARD

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<http://www.house.mi.gov/hfa>

House Bill 4677 as introduced
Sponsor: Rep. Stephanie Chang

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4678 as introduced
Sponsor: Rep. Martin Howrylak

Committee: Law and Justice
Complete to 9-24-18

BRIEF SUMMARY:

House Bill 4677 would create a Family Advisory Board within the Department of Corrections (DOC), prescribe its membership and duties, and require an annual report to the legislature regarding the Board's activities in the preceding year.

House Bill 4678 would amend a portion of the Open Meetings Act pertaining to when a public body could meet in a closed session to conform to the provisions of House Bill 4677.

The bills are tie-barred to each other, which means that neither bill could take effect unless both were enacted. Each bill would take effect 90 days after enactment.

DETAILED SUMMARY:

House Bill 4677 would add a new section to the Corrections Code to create the Family Advisory Board within the Department of Corrections (DOC). The Board would consist of at least 10 but no more than 15 members, one of whom must be the Legislative Corrections Ombudsman and one an individual appointed by the governor who is an employee of the DOC from the Community Corrections Division. Membership would also include individuals appointed by the governor, based upon recommendations submitted by nonprofit entities serving individuals with incarcerated family members, as follows:

- At least 2 but not more than 3 individuals who are family members of individuals *currently* incarcerated in Michigan.
- At least 1 but not more than 3 individuals who are family members of individuals *formerly* incarcerated in Michigan.
- At least 1 individual who has a parent formerly or currently incarcerated in Michigan.
- At least 1 but not more than 2 individuals who were formerly incarcerated in Michigan.
- One individual who is an advocate for or mentor to individuals incarcerated in Michigan.
- At least 1 but not more than 2 individuals representing the State Bar of Michigan who have experience working with formerly or currently incarcerated individuals and their family members.

With some exceptions, terms would be for 2 years, and vacancies would be filled in the same manner as the original appointment. At the first meeting, which would be held not more than 90 days after the bill's effective date, members would select a chairperson and officers to serve 1-year terms. Subsequent meetings would have to be held at least quarterly. Members would

serve without compensation but could be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

The business of the Board would have to be conducted at a public meeting held in compliance with the Open Meetings Act. However, a meeting could be closed to the public for purposes of sharing or discussing **confidential or private information** regarding a prisoner or his or her family member. If a meeting were closed, it would have to be reopened to the public after the sharing or discussion of confidential or private information was completed. A meeting would be required to be closed if medical or psychological information about a named prisoner were shared or discussed, to ensure that such sharing or discussion complied with current departmental policies. The bill specifies that nothing in this provision would affect the rights provided to a department employee under the state Civil Service Commission rules or an applicable collective bargaining agreement.

Confidential or private information would mean information regarding intimidation of or by a named prisoner, formal and documented complaints of unprofessional or criminal behavior by a named department employee or an individual working under a contract with the department, medical or psychological information about a named prisoner or his or her family member, or any other similar sensitive and private information regarding a specific prisoner that the Board reasonably determines should be kept confidential. The term would not include information currently available to the public or readily available to the public from another source.

Writings prepared, owned, used, in the possession of, or retained by the Board in the performance of an official function would be subject to the Freedom of Information Act (FOIA). Writings containing **confidential or private information**, as defined above, would not be subject to FOIA.

The Board would have to do all of the following:

- Assist and advise the DOC regarding the development of policies and procedures, and programs, that support family reunification during and after incarceration.
- Enhance communication between the DOC and families regarding issues impacting a broad range of current and formerly incarcerated individuals and their families.
- Identify barriers concerning family reunification during and after incarceration.
- File an annual report with the chairs of the Senate and House committees concerned with the DOC and criminal justice issues regarding its activities under the bill. The report must be filed not later than October 1 of each year.

The bill would allow the Board, in its discretion, to create regional committees or facility-focused family councils to further its mission.

Further, necessary staffing for the Board to fulfill its duties would be provided by the DOC. The DOC would also have to provide information about the Board on its website and in the waiting rooms of correctional facilities. The information would have to include the Board's contact information for obtaining information and assistance with family-related issues.

Proposed MCL 791.214a

House Bill 4678 would amend the Open Meetings Act (OMA). Under the OMA, a public body may meet in a closed session only for purposes listed in the act. The bill would also allow a public meeting to meet in a closed session for the purpose of sharing or discussing *confidential or private information* regarding an incarcerated person or his or her family at a meeting of the Family Advisory Board.

Confidential or private information would mean information regarding intimidation of or by a named prisoner, formal and documented complaints of unprofessional or criminal behavior by a named *department* employee or an individual working under a contract with the *department*, medical or psychological information about a named prisoner or his or her family member, or any other similar sensitive and private information regarding a specific prisoner that the Board and *department* reasonably determine should be kept confidential. The term would not include information currently available to the public or readily available to the public from another source. [Note: *Department* is not defined for purposes of this provision or in the OMA generally.]

MCL 15.268

BACKGROUND INFORMATION:

House Bill 4677 is a reintroduction of House Bill 4965 of the 2015-2016 legislative session. Both HB 4677 and HB 4678 are part of a larger bill package known as the “Raise the Age” legislation, which is intended to treat individuals who are 17 years of age as juveniles rather than automatically treating them as adults.

FISCAL IMPACT:

These bills would have an indeterminate, but likely minimal, fiscal impact on the state Department of Corrections and no fiscal impact on local units of government. Members of the Family Advisory Board under House Bill 4677 would serve without compensation, but would be reimbursed for their actual and necessary expenses incurred while performing their duties as members of the Board. Additional general fund/general purpose costs to the state would depend on the amount of expenses incurred. Also, the Department of Corrections would be required to provide the staffing resources necessary for the Board to carry out its duties. It is assumed that staffing costs would be covered with existing appropriations.

If the Board met in a closed session, immediately following an open session, then House Bill 4678 would not entail any additional general fund/general purpose costs. Additional costs could be generated if a closed meeting of the Board were called at a time different from an open meeting.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.